

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA
ex rel.

STEPHEN D. LINCOLN, M.D., et al.

Plaintiff-Relators

vs.

ST. JOSEPH MEDICAL
CENTER, INC., et al.

Defendants

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THIS DOCUMENT IS NOT SEALED

CIVIL ACTION NO. MJG-10-1632

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DECISION RE: ST. JOSEPH MEDICAL CENTER SETTLEMENT

The instant lawsuit was filed by Stephen D. Lincoln, M.D., Peter Horneffer, M.D., and Garth McDonald, M.D. (collectively referred to as "Relators") presenting, among other assertions, claims on behalf of the United States Government pursuant to the federal False Claims Act ("FCA").¹ In general, the FCA imposes liability upon persons who participate in presenting false claims to the United States or an agency thereof. 31 U.S.C. § 3729(a) (West 2010).

The Complaint² was filed pursuant to the qui tam provisions of the FCA, which allow a private individual to assert a claim under the FCA in the name of the United States Government and

¹ 31 U.S.C. § 3729 et seq. All § references herein are to the False Claims Act, 31 U.S.C., unless otherwise indicated.

² The term "Complaint" is used herein to refer collectively to both the original Complaint and the Amended Complaint.

share in the recovery. § 3730(c). The Complaint includes allegations that St. Joseph Medical Center, Inc. and others participated in submitting false claims to the United States.

Pursuant to the FCA, the Complaint was filed in camera and under seal. § 3730(b)(2). As required by the FCA, the Complaint was served upon the Government, but not upon any defendant. Id. A qui tam complaint remains under seal and without disclosure to any defendant for a minimum of sixty-days.³ The seal period allows the Government time to investigate the allegations and consider whether to intervene and pursue the litigation. Normally, when the Government intervenes, or decides that it will not intervene, the Complaint is unsealed and served upon all defendants.

To date, the file in the instant case has been maintained under seal. The Government seeks to intervene vis-à-vis Defendant St. Joseph Medical Center, Inc. for purposes of settlement. Accordingly, the Government seeks to have the Court partially lift the seal as to Defendant St. Joseph Medical Center, Inc. so that it may disclose the existence of the instant case and consummate the settlement reached with that

³ By statute, a qui tam complaint remains under seal and without disclosure to the defendant for at least sixty-days. Id. § 3730(b)(2)-(4). For good cause shown by the government, a district court may extend the sixty-day period under which the complaint remains sealed. Id. § 3730(b)(3).

Defendant. However, the Government continues to investigate allegations made against the non-settling Defendants and thus asks the Court to extend the seal period under §3730(b)(3) as to all matters not subject to the partial unsealing.

The Court finds it appropriate to lift the seal vis-à-vis Defendant St. Joseph Medical Center, Inc. as requested by the Government. Therefore, the Government may disclose the fact that this qui tam has been filed and the above caption of this action that identifies Defendant St. Joseph Medical Center, Inc., but not the identity of other defendants and the allegations against them.

The Government has persuaded the Court that a present unsealing of the Complaint would unduly interfere with its investigation and consideration of claims against persons other than St. Joseph Medical Center, Inc. Moreover, the Court finds it appropriate to defer placing on the public record allegations made on behalf of the Government against identified entities and individuals until the Government itself decides whether to assert or eschew such allegations.

The Court shall issue an Order consistent herewith.

SO DECIDED, on Tuesday, November 09, 2010.

/s/_____
Marvin J. Garbis
United States District Judge